

**TESTIMONY OF
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Before the

**SUBCOMMITTEE ON OCEANS AND FISHERIES
SENATE COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION
PORTLAND, MAINE
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**REAUTHORIZATION OF THE MAGNUSON-STEVENS FISHERY
CONSERVATION AND MANAGEMENT ACT**

Senator Snowe and members of the Subcommittee on Oceans and Fisheries, my name is George Lapointe, Commissioner of Marine Resources for the State of Maine. Governor King sends his regards to the Subcommittee for your past work on the management of our Nation's marine resources. The Governor believes that the Gulf of Maine is one of Maine's natural competitive advantages and that sea has been part of Maine's heritage for nearly the past 400 years and, equally important, will be part of our future for the next 400 years. Last year, Maine's fisheries resources had the top value of any state in the northeastern United States and supported over 20,000 license holders.

I am glad that the Subcommittee has come to Portland to hear how the implementation of the Sustainable Fisheries Act is going because there are a number of issues related to the Sustainable Fisheries Act that may hinder our ability to make the best use of Maine's sustainable marine fisheries resources. For Maine, this means managing fisheries in a manner that results in sustainable fisheries and sustainable communities.

I have begun discussing with people up and down the coast how they think the implementation of the Sustainable Fisheries Act has been going. These discussions are the basis of the concerns that I will raise with the Subcommittee. The State of Maine would be pleased to further explore these and other ideas with the Subcommittee as the reauthorization process continues. The issues are:

1. **Pace of the management process** – The management process that has been devised to implement the Sustainable Fisheries Act is one that cannot be maintained.
2. **Socio-economic impacts of fishery management** – National Standard 8 states that fishery management must account for socioeconomic impacts. To implement National Standard 8 requires resources not currently allocated to the Councils or National Marine Fisheries Service.

1. **State / federal issues** – The States should be better recognized in the federal management arena for their roles and capabilities.
1. **Essential fish habitat** – The implementation of the Sustainable Fisheries Act have raised concerns about how Essential Fish Habitat is defined and how the designation of Essential Fish Habitat will be used in the future
1. **Data, information** - Lack of resources at the state, council, and federal levels to address critical issues and questions makes the implementation of the Sustainable Fisheries Act very difficult.
2. **Single species management approach** –The application of single species management through the use of maximum sustainable yield (MSY) results in the impossible situation of trying to keep many species at high levels of biomass at the same time.

Management Process -The management process that has been devised to implement the Sustainable Fisheries Act is one that simply cannot be maintained. This is the result of a number of actions and issues. The biological targets, rebuilding schedules, and required annual review of a plan's performance has resulted in a near continuous set of discussions, meetings, reviews of information, and regional fishery management council actions. With the New England Fishery Management Council Multispecies (groundfish) Fishery Management Plan we are currently discussing Amendment 13 and Framework 31! I believe that we have had work on five framework adjustments in 1999. This is difficult to keep track of for people who work on management issues full time. Imagine how difficult it is for fishermen or members of the public to figure out what's going on and try to comment in a knowledgeable, efficient matter. A democratic process with meaningful public input cannot be maintained with this pace of activity.

It is important to note that this pace does not allow time for thorough discussions of management alternatives. Most people will argue that the current groundfish management system should be changed but the deadlines and meetings with the current management process take so much time and effort that discussion of alternatives is not given enough time.

For Maine fishermen, we have not only the issue of the pace of discussions but where the discussions occur. For many of our fishermen to participate in a one day council meeting takes two or three days because of the distances involved. People in Eastport or Cutler have a long trip to get to Augusta so when they have to go to Massachusetts it becomes a major commitment of time and money.

The pace of the management process has also generated an ugly trend here in New England where Council meetings have become so hostile that people are reluctant to attend the meetings. The damper effect of this kind of behavior on the democratic process and public input cannot be overemphasized. The Council process will fail if this trend

continues. The leadership of the New England Fishery Management Council recognizes that something must be done to make Council meetings work openly, safely, and fairly. I am confident that they will address the issue forthrightly but we must all monitor how the Councils function in this regard to allow all views to be aired in the management process.

Socio-economic impacts of fishery management – National Standard 8 states that fishery management must, consistent with conservation objectives, take socioeconomic impacts into account with an emphasis on impacts on communities. To implement this National Standard adequately requires resources not currently allocated to the states, councils or National Marine Fisheries Service. Taking account of the human side of the fisheries ecosystem is as complex and difficult as trying to figure out the biology of a fish species. To do this correctly means that the management system must be modified to give the time and resources needed to get this information. The current system comes nowhere close to conducting this type of analysis, resulting in discussions of socioeconomic impacts that are virtually non-existent or are incomplete.

I believe that this is a critical issue because the impacts of fisheries management - state, council, and federal - on fisheries and coastal communities have been enormous. For example, groundfish fishing in eastern Maine is virtually eliminated when compared to past decades. We used to have over 30 ports that landed groundfish; we now have less than 10. Less ports means less boats, less boats means less jobs at sea and shore side. Less fish means less support industries. The management process has vastly reduced people's abilities to switch into other fisheries, which further erodes their ability to make a living and the ability of communities to survive economically as fishing ports.

State / federal issues – I believe that the ever increasing requirements in the Sustainable Fisheries Act have eroded states' ability to manage their fisheries. The states, individually and collectively through the Atlantic States Marine Fisheries Commission, should be better recognized in the federal management arena for their roles and capabilities. The continuing discussion on lobster management in federal waters is a good example of this. A number of years ago, a decision was made to have lobster management rest with the states, and rightly so, because nearly 80% of lobster landings occur in state waters. Maine, and the other states of the Atlantic States Marine Fisheries Commission, prepared Amendment 3 to the Lobster FMP that was completed in December 1997. The role of the National Marine Fisheries Service is to prepare regulations that complement the ASMFC plan. We are still waiting for those regulations and earlier versions have contained some provisions that undermine the state management process.

Recent discussions of the New England Fishery Management Council about the management of Northern shrimp provide another example. The shrimp management process through the states has been very responsive to both resource condition and the needs of fishermen. In addition, the annual season setting process uses data two months (not years) old. The federal management process needs to recognize the ability and track record of the states as a viable alternate method of meeting national management goals.

Essential fish habitat – Implementation of the Sustainable Fisheries Act has raised concerns about how Essential Fish Habitat is defined, how the Councils will comment on activities in areas of Essential Fish Habitat, and how the designation of Essential Fish Habitat will be used in the future. The potential impact of Essential Fish Habitat designation on Maine's economy is great.

The most illustrative example of this concern is for Atlantic salmon. The New England Fishery Management Council has designated 11 watersheds in Maine as Essential Fish Habitat for salmon, an area that comprises about 50% of Maine's land area. The Land and Water Resources Council in Maine, made up of agencies with natural resources responsibilities, is very concerned about how the Essential Fish Habitat designation, and future use of this designation, could impact nearly every activity in this very large land area.

There is also concern about Essential Fish Habitat designations in marine waters where the presence or absence of eggs, juveniles, and adults of a species define the essential habitat. This ubiquitous definition is so broad that it is nearly meaningless.

Everyone realizes that fish must have good habitat to survive and that fisheries management has not taken fish habitat into account as an integral part of the management process. However, the implementation of the Essential Fish Habitat provisions of the Sustainable Fisheries Act must be clarified to address these concerns in a thoughtful, focused manner.

Data, information - The amount of information needed to implement the fishery management process envisioned under the Sustainable Fisheries Act is staggering, whether you're talking about biological or socioeconomic data. Lack of resources at the state, council, and federal levels to address critical issues and questions makes the implementation of the Sustainable Fisheries Act very difficult if not impossible.

A serious consequence of the lack of data is an increasing reliance on the use of the precautionary principle. In the past, fisheries management did not act without sufficient data with which to make decisions. Understanding that we will always have unanswered questions, this past behavior did not pass a straight face test. Implementation of a management system with a reliance on the precautionary principle without a plan to fill these data gaps also does not pass a straight face test.

The logical future implementation of the Sustainable Fisheries Act must be accompanied by a concurrent biological and socioeconomic research program and a more balanced approach to using the precautionary principle.

A good trend that we've seen in data collection over the past few years is cooperative research with the fishing industry. Two significant advantages of this trend are cost effective data and a greater understanding of the data by the fishing community -

because they took part in gathering the information. The cooperative herring research prioritization and data collection in Maine's herring industry provides a great example of this type of effort. Work with the fishing industry to help fill these information gaps should be encouraged.

Single species management approach – The approach to management of marine species in the Sustainable Fisheries Act is largely one of single species management. The application of single species management through the use of maximum sustainable yield (MSY) for all species results in the impossible situation of trying to keep many species at high levels of biomass at the same time. Past work done in the Gulf of Maine demonstrated that the amount of biomass that can be supported is limited by the amount of sunlight falling on the area. This work suggests that the notion we can manage for concurrent, high abundance of all species is simply wrong.

Multispecies or ecosystem management is the direction to head in to correct this situation. I think, however, that implementing ecosystem management is going to require much more information than we currently have available. A potential solution would be to allow a prioritization of which species would be managed for high abundance and which species would be managed for lower abundance.

An absolutely grave consequence of single species management has been the pitting of fishermen against fishermen, community against community, and state against state in the struggle to meet fishery management plan objectives. This competition benefits nobody in the fishing community.

SUMMARY

I think that this reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act is coming at a critical time where we can make decisions that make the Act work better by addressing some of these concerns. Or, we can use the reauthorization to further restrict our ability to manage with balance and the input of affected communities. Currently, implementation of the Sustainable Fisheries Act is slowly eroding the ability of Maine's commercial fishing industry to support the economic base of our coastal communities. Here in Portland, Maine's largest commercial fishing port, we have been struggling to sustain the infrastructure necessary to maintain a viable groundfish fishery. Further up the coast, fishermen do not have the opportunity to fish for groundfish. These communities are all struggling for the survival of working waterfronts and of fishing families.

It is important to note that folks in Maine want good fisheries management because they know that you've got to have fish to have good fisheries. However, they have been subjected to further and further restrictions by the NMFS as they attempt to comply with the provisions of Sustainable Fisheries Act. This leads to an inability of fishermen to plan for the future of their business and the future of their family. Fishermen are feeling demoralized and frustrated by the incremental, constant change they are forced

to adjust to. Much of this is because of an inability to process all of the information and actions that confronts them. Maine's fishermen are willing to make tough choices when they understand what they are trying to accomplish. The work of Maine's fishing community in crafting the Maine alternative during last year's work with Framework 27 to the groundfish fishery management plan is a good example. Although the Council did not accept the Maine proposal, Maine's fishermen put together a tough proposal that would have gotten the job done of protecting Gulf of Maine cod. However, if they do not understand the basis for management or the information used in management, they are unlikely to support tough choices.

The reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act provides the opportunity to address the issues that I have discussed today. I look forward to working with Senator Snowe and other members of the Subcommittee to improve the Act so that we can achieve our conservation goals without killing our fishing communities and industry. We are one Maine coast with one marine resource base that must be managed in a way that provides for sustainable Maine communities.